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10/751,376

01/05/2004

Gerrit Willem Hiddink

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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/751,376
Filing Date: January 05, 2004
Appellant(s): HIDDINK, GERRIT WILLEM

MAILED

JAN 24 2008

Technology Center 2600

Kevin M. Mason
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 1st, 2007 appealing from the
Office action mailed May 15th, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1-4, 6-7, 11, 13-16, 18 and 22-24 which are rejected under 35 U.S.C. 102(b) as being anticipated by Crawford (US 2003/0002471 A1).

Claims 5, 17, and 25 are now objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

Claims 1-4, 6-7, 11, 13-16, 18 and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Crawford (US 2003/0002471 A1).

Claims 5, 17, and 25 are no longer rejected under 35 U.S.C. 103(a) as being unpatentable over Crawford. Claims 5, 17 and 25 are now objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Crawford et al., "Method for Estimating Carrier-to-Noise-Plus-Interference Ratio (CNIR) for OFDM Waveforms and the Use Thereof for Diversity Antenna Branch Selection", United States Patent Application Publication Number 2003/0002471 A1, January 2, 2003.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-7, 11, 13-16, 18, 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Crawford (US 2003/0002471 A1, cited by examiner).

As to claims 1, 13, 23, Crawford discloses a wireless communication device (see figure 1), comprising a plurality of antennas A1-A6; and a predictive antenna selector that evaluates a signal quality of each of said plurality of antennas of at least a portion of one prior frame and selects an antenna to communicate one or more frames based on said signal quality evaluation (see paragraphs [0049], [0079], [0180]). Crawford further discloses that the predictive antenna selector evaluates the signal quality of each of said plurality of antennas based on a weighted schedule (see paragraphs [0155], [0156], [0163], [0165] which clearly discloses that an antenna which has poor signal quality during a previous interval will not be scheduled to be evaluated in the next interval. Since the schedule for each antenna is not fixed, and actually is **biased** or **manipulated**, it reads on a weighted schedule as claimed).

As to claims 2, 14, see Crawford, paragraphs [0053], [0080].

As to claims 3, 15, see Crawford, paragraphs [0055], [0077], [0086].

As to claims 4, 6, 16, 24, see Crawford, paragraphs [0154]-[0156], [0163], [0165].

As to claims 7, 18, see Crawford, paragraph [0168].

As to claims 11, 22, see Crawford, paragraph [0060].

(10) Response to Argument

Independent Claims 1, 13 and 23

Appellant asserts that a "weight" is defined as a "factor assigned to a number in a computation, as in determining an average, to make the number's effect on the

computation reflect its importance." (See, dictionary.com). For that reason, appellant argues that Crawford does not disclose or suggest "weights," and does not disclose or suggest that the signal quality of each of a plurality of antennas are evaluated based on a weighted schedule as recited in independent claims 1, 13, and 23.

The examiner, however, disagrees. The specification is totally silent about any factor, any computation of an average, let alone "a factor assigned to a number in a computation, as in determining an average". Therefore, the examiner contends that the recitation "weight" as claimed is not required to be defined as "factor assigned to a number in a computation, as in determining an average, to make the number's effect on the computation reflect its importance", as alleged by appellant.

According to dictionary.com, "weight" is also defined as "to **bias** or slant toward a particular goal or direction, **manipulate**" (emphasis added by examiner).

Crawford discloses that the predictive antenna selector evaluates the signal quality of each of said plurality of antennas based on a weighted schedule (see paragraphs [0155], [0156], [0163], [0165] which clearly disclose that an antenna which has poor signal quality during a previous interval will not be scheduled to be evaluated in the next interval). The schedule for each antenna is not fixed, and actually is **biased** or **manipulated** (i.e., an antenna which has poor signal quality during a previous interval will not be scheduled to be evaluated in the next interval). Accordingly, Crawford does disclose a weighted schedule as claimed, and does disclose that the signal quality of each of a plurality of antennas are evaluated based on a weighted schedule as recited in the claims.

Dependent Claims 5, 17 and 25

The examiner finds appellant's arguments regarding claims 5, 17 and 25 persuasive. Accordingly, the rejections to claims 5, 17 and 25 under 35 U.S.C. 103(a) as being unpatentable over Crawford are now withdrawn.

(11) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Nguyen Vo

Primary Examiner

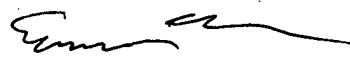

1-17-2008

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